

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 11,243

IN THE MATTER OF:

Served March 31, 2008

HEAVEN ON WHEELS LLC, Suspension)
and Investigation of Revocation of)
Certificate No. 737)

Case No. MP-2007-238

This matter is before the Commission on respondent's response to Order No. 11,110, served January 29, 2008, directing respondent to show cause why the Commission should not assess a civil forfeiture against respondent, and/or revoke Certificate No. 737, for knowingly and willfully violating Article XI, Section 6(a), of the Compact, Regulation No. 58, and Order No. 11,003.

I BACKGROUND

Under the Compact, a WMATC carrier may not engage in transportation subject to the Compact if the carrier's certificate of authority is not "in force."¹ A certificate of authority is not valid unless the holder is in compliance with the Commission's insurance requirements.²

Commission Regulation No. 58 requires respondent to insure the revenue vehicles operated under Certificate No. 737 for a minimum of \$1.5 million in combined-single-limit liability coverage and maintain on file with the Commission at all times proof of coverage in the form of a WMATC Certificate of Insurance and Policy Endorsement (WMATC Insurance Endorsement) for each policy comprising the minimum.

Certificate No. 737 was rendered invalid on November 11, 2007, when the \$1.5 million primary WMATC Insurance Endorsement on file for respondent terminated without replacement. Order No. 10,909, served November 13, 2007, noted the automatic suspension of Certificate No. 737 pursuant to Regulation No. 58-02, directed respondent to cease transporting passengers for hire under Certificate No. 737, and gave respondent thirty days to replace the cancelled endorsement and pay the \$50 late fee due under Regulation No. 67-03(c) or face revocation of Certificate No. 737.

Respondent paid the \$50 late fee on November 19 and submitted a \$1.5 million primary WMATC Insurance Endorsement on November 14, with an effective date of November 22, 2007, instead of November 11, 2007. Thus, as matters stood then, respondent was without insurance coverage for eleven days, from November 11, 2007, through November 21, 2007.

¹ Compact, tit. II, art. XI, § 6(a).

² Compact, tit. II, art. XI, § 7(g).

Under Commission Rule No. 28, respondent is required to verify that it ceased transporting passengers for hire under Certificate No. 737 as directed by Order No. 10,909. Order No. 11,003 accordingly gave respondent thirty days to verify cessation of operations as of November 11, 2007. Inasmuch as respondent's only tariff is an out of date DC Medicaid tariff, respondent also was directed to corroborate its verification with copies of its general business records. Finally, respondent was directed to file a new tariff replacing the invalid DC Medicaid tariff.

Respondent submitted a revised \$1.5 million replacement WMATC Insurance Endorsement on January 11, 2008. The revised replacement Endorsement is effective November 11, 2007, thus eliminating the 11-day gap in coverage under the original replacement endorsement.

Respondent, however, did not comply with any of the requirements of Order No. 11,003. Order No. 11,110 accordingly directed respondent to show cause why the Commission should not assess a civil forfeiture against respondent, and/or revoke Certificate No. 737, for knowingly and willfully conducting operations under an invalid/suspended certificate of authority and failing to produce documents as directed.

II. ORDER TO LIFT SUSPENSION AND CONTINUE INVESTIGATION

Respondent has submitted a statement verifying cessation of operations as of November 1, 2007. Respondent also has filed a new general tariff. But respondent has not filed any copies of its business records.

Because respondent has closed the 11-day coverage gap and is currently in compliance with Regulation No. 58, we will lift the suspension.³ But given the state of this record, respondent will be directed to produce copies of all business records, including copies of bank deposit items and gas station receipts, for the period beginning September 1, 2007, and ending on the date of this order.⁴

THEREFORE, IT IS ORDERED:

1. That the suspension of Certificate No. 737 is hereby lifted.

2. That within thirty days from the date of this order, respondent shall produce any and all books, papers, correspondence, memoranda, contracts, agreements, and other records and documents, including any and all stored electronically, that are within respondent's possession, custody or control and which relate to the transportation of passengers for hire between points in the Metropolitan District during the period beginning September 1, 2007,

³ See *In re Ibrahim A. Fahadi*, No. MP-07-117, Order No. 10,850 (Oct. 19, 2007) (same).

⁴ See *id.* (same).

and ending on the date of this order, including, but not limited to any and all:

- a. gas station receipts;
- b. customer contracts and invoices;
- c. invoices from other carriers;
- d. calendars and itineraries;
- e. bank records, including copies of all deposit items;
- f. insurance documents;
- g. advertising materials; and
- h. income tax and personal property returns.

BY DIRECTION OF THE COMMISSION; COMMISSIONERS YATES AND CHRISTIE:



William S. Morrow, Jr.
Executive Director